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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,300	08/16/2001	Michael Wayne Brown	AUS920010299US1	3161
7590	12/17/2004		EXAMINER	
Duke W. Yee Carstens, Yee & Cahoo, LLP P.O. Box 802334 Dallas, TX 75380				ALAM, UZMA
		ART UNIT	PAPER NUMBER	2157

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/931,300	BROWN ET AL.
	Examiner Uzma Alam	Art Unit 2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 16 August 2001.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-50 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-50 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 16 October 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

This action is responsive to the application filed on August 16, 2001. Claims 1-50 are pending. Claims 1-50 represent a method for monitoring data sent from a computer.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 47-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 47 and 48 recites the limitation "the apparatus" in claim 48. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-13, 25-31, 33-37, and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Duvall et al. US Patent No. 5,884,033.

Duvall discloses the invention as claimed including data transfer monitoring (see abstract).

As per claims 1, 25, and 49, Duvall teaches a method, apparatus and computer program product in a computer system, for monitoring data from a computer, comprising:

detecting a request for an outgoing transfer of data from a program in the computer system destination (checking outgoing data being transferred; column 3, lines 13-49);  
determining whether the destination is trusted site (column 3, lines 64-67; column 4, lines 1-21); and  
performing a corrective action if the destination is not a trusted site (column 4, lines 11-21).

As per claims 2 and 26, Duvall teaches the method and apparatus of claims 1 and 25 wherein the step of determining whether the destination is a trusted site comprises matching the destination against a list of trusted sites (column 4, lines 1-11)

As per claims 3 and 27, Duvall teaches the method and apparatus of claims 1 and 25 wherein the corrective action comprises blocking the outgoing transfer (column 4, lines 12-21; column 6, lines 20-26).

As per claims 4 and 28, Duvall teaches the method and apparatus of claims 1 and 25 wherein the corrective action comprises disabling the program (column 4, lines 56-64).

As per claims 5 and 29, Duvall teaches the method and apparatus of claims 1 and 25 wherein the step of performing a comprises:

changing the destination of the outgoing transfer the computer system (column 4, lines 65-67; column 5, lines 1-29; column 6, lines 20-26); and  
determining whether the program operates in response to the changed destination (column 4, lines 51-64; column 5, lines 61-64).

As per claims 6 and 30, Duvall teaches the method and apparatus of claims 1 and 25 wherein the step of performing a corrective action comprises:

irreversibly encrypting the data (column 5, lines 30-51); and  
determining whether the program operates in response to the encryption (column 5, lines 61-64).

As per claims 7 and 31, Duvall teaches the method and apparatus of claims 1 and 30 wherein the step of irreversibly encrypting the data comprises injecting random numbers into the data (column 5, lines 30-51).

As per claims 9 and 33, Duvall teaches the method and apparatus of claims 1 and 25 further comprising:

determining whether the data includes personal information (column 7, lines 40-60; column 8, lines 8, lines 1-16); and  
performing a corrective action if the data includes personal information (column 7, lines 40-60; column 8, lines 1-16).

As per claims 10 and 34, Duvall teaches the method and apparatus of claims 1 and 33 wherein the step of determining whether the data includes personal information comprises performing a text string or search binary pattern search on the data (column 6, lines 29-59).

As per claims 11 and 35, Duvall teaches the method and apparatus of claims 1 and 25 wherein the step of performing a corrective action comprising storing a log of the outgoing transfer (column 8, lines 1-62).

As per claims 12 and 36, Duvall teaches the method and apparatus of claims 11 and 35 wherein the step of storing a log comprises storing a log of the outgoing transfer comprises storing the data (column 8, lines 1-62).

As per claims 13 and 37 Duvall teaches the method and apparatus of claims 11 and 35 further comprising transferring the log to a remote computer (column 7, lines 16-29; column 8, lines 1-62).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 14-24, 32, 38-48, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duvall US Patent No. 5,884,033 in view of Lin et al US Patent No. 6,751,668.

Lin discloses the invention substantially as claimed including denial of service attack blocking (see abstract).

As per claims 8 and 32, Duvall teaches the method and apparatus of claims 1 and 25. Duvall does not disclose further comprising: determining whether the amount of data for the outgoing transfer uncharacteristically high; performing a corrective action if the amount of data is uncharacteristically high.

Lin discloses determining whether the amount of data for the outgoing transfer uncharacteristically high (column 2, lines 25-33, 43-55); performing a corrective action if the amount of data is uncharacteristically high (column 2, lines 33-42; 56-62).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine monitoring outgoing traffic of Duvall with monitoring amount of data of Lin. A person of ordinary skill in the art would have been motivated to do this to enhance the monitoring filters of the system.

As per claims 14, 38 and 50, Duvall teaches a method, apparatus and computer program product in a computer system for monitoring data from a computer, comprising: detecting a request for an outgoing transfer of data from a program in the computer system destination (column 3, lines 13-49); and

performing a corrective action (column 4, lines 11-21).

Duvall does not teach determining whether the amount of the data is uncharacteristically high; and performing a corrective action if the amount of the data is uncharacteristically high.

Lin teaches determining whether the amount of data for the outgoing transfer uncharacteristically high (column 2, lines 25-33, 43-55);

performing a corrective action if the amount of data is uncharacteristically high (column 2, lines 33-42, 56-62).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine monitoring outgoing traffic of Duvall with monitoring amount of data of Lin. A person of ordinary skill in the art would have been motivated to do this to enhance the monitoring filters of the system.

As per claims 15 and 39, Duvall teaches the method and apparatus of claims 14 and 38 wherein the corrective action comprises blocking the outgoing transfer (Duvall column 4, lines 12-21; column 6, lines 20-26).

As per claims 16 and 40, Duvall teaches the method and apparatus of claims 14 and 38 wherein the corrective action comprises disabling the program (Duvall column 4, lines 56-64).

As per claims 17 and 41, Duvall teaches the method and apparatus of claims 14 and 38 wherein the step of performing a comprises:

changing the destination of the outgoing transfer the computer system (Duvall column 4, lines 65-67; column 5, lines 1-29; column 6, lines 20-26); and  
determining whether the program operates in response to the changed destination (Duvall column 4, lines 51-64; column 5, lines 61-64).

As per claims 18 and 42 Duvall teaches the method and apparatus of claims 14 and 38 wherein the step of performing a corrective action comprises:

irreversibly encrypting the data (Duvall column 5, lines 30-51); and  
determining whether the program operates in response to the encryption (Duvall column 5, lines 61-64).

As per claims 19 and 43, Duvall teaches the method and apparatus of claims 18 and 38 wherein the step of irreversibly encrypting the data comprises injecting random numbers into the data (Duvall column 5, lines 30-51).

As per claims 20 and 44, Duvall teaches the method and apparatus of claims 14 and 38 further comprising:

determining whether the data includes personal information (Duvall column 7, lines 40-60; column 8, lines 8, lines 1-16); and  
performing a corrective action if the data includes personal information (Duvall column 7, lines 40-60; column 8, lines 1-16).

As per claims 21 and 45, Duvall teaches the method and apparatus of claims 20 and 38 wherein the step of determining whether the data includes personal information comprises performing a text string or search binary pattern search on the data (Duvall column 6, lines 29-59).

As per claims 22 and 46, Duvall teaches the method and apparatus of claims 14 and 38 wherein the step of performing a corrective action comprising storing a log of the outgoing transfer (Duvall column 8, lines 1-62).

As per claims 23 and 47, Duvall teaches the method and apparatus of claims 22 and 46 wherein the step of storing a log comprises storing a log of the outgoing transfer comprises storing the data (Duvall column 8, lines 1-62).

As per claims 24 and 48 Duvall teaches the method and apparatus of claims 22 and 46 further comprising transferring the log to a remote computer (Duvall column 7, lines 16-29; column 8, lines 1-62).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Converse et al U.S. Patent Publication No. 2002/0143963 discloses monitoring data transfer.

Eichstaedt et al. U.S. Patent No. 6,662,230 discloses monitoring data transfer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uzma Alam whose telephone number is (571) 272-3995. The examiner can normally be reached on Monday-Tuesday 11:30am-8pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Uzma alam  
ua



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PRIMARY EXAMINER